



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Board of County Commissioners**

Tuesday, June 7, 2005

9:30 AM

Commission Chamber

Charles Anderson, CPA  
Commission Auditor

111 NW First Street, Suite 250  
Miami, Florida 33128  
305-375-4354

June 7, 2005

## LEGISLATIVE ANALYSIS

*ORDINANCE AMENDING ORDINANCE NO. 93-91, AS AMENDED BY ORDINANCE NO. 96-101, TO RESCIND TWO CENTS OF THE REMAINING THREE CENTS OF THE 1993 FIVE CENTS CAPITAL IMPROVEMENTS LOCAL OPTION GAS TAX; PROVIDING WAIVER OF SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RULE 5.06(F); DIRECTING CLERK OF THE BOARD TO MAIL CERTIFIED COPY HEREOF TO THE FLORIDA DEPARTMENT OF REVENUE IN TALLAHASSEE FLORIDA; AND PROVIDING SEVERABILITY, INCLUSION IN CODE AND EFFECTIVE DATE*

Commissioner Natacha Seijas  
Commissioner Rebeca Sosa

### I. SUMMARY

This ordinance would roll-back the Local Option Gas Tax (LOGT) for Capital Improvements from 3 cents to 1 cent.

### II. PRESENT SITUATION

Florida Statutes Sec. 336.025(1)(b) allows for counties to assess up to 5 cents in Local Option Gas Taxes for Capital Improvements associated with Transportation Expenditures.

Miami-Dade County originally levied the entire 5 cent LOGT.

However, in 1996 the Board of County Commissioners elected to rollback the LOGT to 3 cents.

In FY 2004-2005 the County collected approximately \$26 million.

Through an Interlocal Agreement with municipalities, the County keeps 74% (\$19.3 million for FY 2004-2005) of the money collected for this purpose. The additional 26% (or \$6.7 million) is distributed to the municipalities via a weighted formula (75% population and 25% center-line road miles).

**(SEE ATTACHMENT 3): Estimated municipal distributions.**

**There are currently 6 different fuel taxes assessed per gallon in Miami-Dade County.**

### III. POLICY CHANGE AND IMPLICATION

Theoretically, this rollback would reduce the cost of gas, for consumers, by 2 cents per gallon.

A previous report, on March 21, 2000, by then County Manager stated the following:

We have advised the Board that retail fuel prices are driven by far more significant factors than local option gas tax levels and that it is our belief that any reduction in local option gas tax levels likely will not benefit gas consumers. There is no guarantee any savings will be passed on to the consumer. If the savings is not passed on, we will simply be fattening the pockets of fuel distributors and retailers. To help make that point, I have attached a table (Attachment 1) that was produced to show the effect of the County's most recent local option gas tax decisions on retail fuel prices.

This ordinance would reduce LOGT collections by 2 cents per gallon (or 66%).

Further, this would reduce the amount distributed to municipalities by 66%.

This LOGT is one of the revenue sources utilized by the Peoples' Transportation Plan (PTP).

The PTP Pro-forma would have to be adjusted accordingly to reflect the reduction in this revenue source.

#### **IV. ECONOMIC IMPACT**

**(SEE ATTACHMENT 1)**

#### **V. COMMENTS AND QUESTIONS**

**Attachment 2:** AAA fuel averages.

**Attachment 3:** Estimated Municipal distribution of LOGT for FY 2004-2005.

**Attachment 4:** Other counties in Florida levying this LOGT.

ATTACHMENT 1

## LOCAL OPTION GAS TAX

Miami-Dade County currently collects 3 cents, out of a possible 5 cents, (or approximately \$26 million annually) from this Local Option Gas Tax (LOGT) for Capital Improvements.

Section 336.025 Florida Statutes allows the Board of County Commissioners to impose, or rollback, any increment up to 5 cents.

*Any amount higher would require approval by the State Legislature*

This possible .05 cent Gas Tax is divided by an Interlocal Agreement as follows:

74% County / 26% Divided by Cities

Current breakdown on 3 cent Local Option Gas Tax: **\$26 million**

**\$19.3 million - County Share (74%)**

**\$ 6.7 million - Cities Share (26%)**

A reduction of 1 cent would mean a reduction in revenues of approximately **\$8.7 million**

**\$6.4 million - County Share (74%)**

**\$2.3 million - Cities Share (26%)**

A reduction of 2 cents would mean a reduction in revenues of approximately **\$17.4 million**

**\$12.8 million - County Share (74%)**

**\$ 4.6 million - Cities Share (26%)**

\* There are 6 different Gas Taxes.

\* The tax outlined in this memo is available for all County Transportation Capital Projects.

\* Of the 74% County Share of this tax, at least 20% must be used on UMSA projects.  
However, the current split has been approximately 50/50 UMSA vs. County projects.

\* There is no Sunset Provision on the Interlocal Agreement guiding this Local Option Gas tax.

\*\* The reductions in revenues listed above do not take into account any "Price Elasticity" that may occur due to a reduction of gas prices.

*Will people be more likely to purchase more fuel at 2 cents less per gallon ?*

## ATTACHMENT 2

AAA Fuel Price Report as of June 3, 2005

### National Unleaded Average

	Regular	Mid	Premium	Diesel
Current Avg.	\$2.098	\$2.227	\$2.308	\$2.249
Yesterday Avg.	\$2.095	\$2.224	\$2.305	\$2.246
Month Ago Avg.	\$2.222	\$2.359	\$2.445	\$2.345
Year Ago Avg.	\$2.041	\$2.167	\$2.245	\$1.822

Fort Lauderdale	Regular	Mid	Premium	Diesel
Current	\$2.200	\$2.384	\$2.428	\$2.329
Yesterday	\$2.200	\$2.384	\$2.428	\$2.319
Month Ago	\$2.257	\$2.445	\$2.490	\$2.337
Year Ago	\$2.074	\$2.247	\$2.288	\$1.866

Metropolitan Miami Area	Regular	Mid	Premium	Diesel
Current	\$2.197	\$2.380	\$2.424	\$2.361
Yesterday	\$2.196	\$2.379	\$2.423	\$2.361
Month Ago	\$2.305	\$2.497	\$2.543	\$2.433
Year Ago	\$2.078	\$2.251	\$2.292	\$1.867

\* There has been a 7 cent drop in the average price per gallon for Regular Unleaded Gasoline since this Agenda Item was introduced on May 12, 2005.

ATTACHMENT 3

## Estimated Local Option Gas Tax Distribution to Municipalities

The Column on the right depicts the estimated amounts municipalities in Miami-Dade County would receive in 2005 at the current rate of 3 cents.

BOCC Miami-Dade	\$	0.06	70.7000000	\$	44,435,306	\$	0.03	74.0000000	\$	20,537,981
Aventura			0.4945500		310,827			0.4388500		121,799
Bal Harbour			0.0598000		37,585			0.0530700		14,729
Bay Harbor Islands			0.1125700		70,751			0.0988900		27,723
Biscayne Park			0.0994300		62,482			0.0882300		24,487
Coral Gables			1.3458500		845,874			1.1942700		331,458
Doral			0.5848000		367,550			0.5189400		144,027
El Portal			0.0739200		46,459			0.0656000		18,207
Florida City			0.2480900		154,669			0.2183700		60,606
Golden Beach			0.0441700		27,761			0.0391900		10,877
Hialeah			5.2974200		3,329,455			4.7007800		1,304,856
Hialeah Gardens			0.4346000		273,148			0.3856600		107,036
Homestead			0.8872000		557,866			0.7873600		218,524
Indian Creek			0.0059300		3,727			0.0052600		1,450
Key Biscayne			0.2394100		150,470			0.2124500		58,963
Medley			0.0854100		53,681			0.0757900		21,035
Miami			8.0628600		5,067,548			7.1547500		1,985,731
Miami Beach			1.9699200		1,238,105			1.7480500		485,154
Miami Gardens			2.4462600		1,537,487			2.1707500		602,471
Miami Lakes			0.6044800		379,919			0.5364000		148,873
Miami Shores			0.2822300		177,383			0.2504500		69,510
Miami Springs			0.4597600		288,961			0.4079800		113,231
North Bay			0.1335500		83,937			0.1185100		32,891
North Miami Beach			1.0126400		636,449			0.8985900		249,395
North Miami			1.3937200		875,960			1.2367500		343,248
Opa Locka			0.3600200		226,274			0.3194700		88,666
Palmetto Bay			0.7474600		489,782			0.6632700		184,084
Pinecrest			0.6012200		377,870			0.5335000		148,088
South Miami			0.3081100		192,392			0.2716300		75,388
Sunny Isles Beach			0.2932900		184,334			0.2602600		72,233
Surfside			0.1188800		74,717			0.1054900		29,278
Sweetwater			0.3027200		190,261			0.2686300		74,656
Virginia Gardens			0.0572800		36,001			0.0508200		14,105
West Miami			0.1363600		85,703			0.1209800		33,580
			100.0000000	\$	62,850,804			100.0000000	\$	27,754,029

## ATTACHMENT 4

### LOCAL OPTION TAXES (Continued)

#### COUNTY LOCAL OPTION MOTOR FUEL TAX

Florida Statutes: Section 336.025(1)(b), F.S.  
Section 206.41(1)(c)

Administered by: Department of Revenue

#### DISPOSITION

The department returns the proceeds to the county where the revenue is collected and deposits funds into the local option fuel tax trust fund.

#### BASE AND RATE

Any county may levy one through five cents of tax upon a majority plus one vote of the county commission or by referendum. The tax is imposed on motor fuel sold at retail within a county in which the tax is authorized. Until June 30, 1996, retail motor fuel dealers collect and remit the tax to the Department of Revenue. Effective July 1, 1996, wholesalers remit the tax.

County and municipal governments must spend these funds on transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan.

#### COUNTIES LEVYING TAX (as of 1/2005)

Broward	5	Martin	5
Charlotte	5	Miami-Dade	3
Collier	5	Palm Beach	5
Columbia	5	Polk	5
Desoto	5	St. Lucie	5
Hendry	2	Sarasota	5
Hernando	2	Suwannee	5
Highlands	5	Volusia	5
Lee	5		

## LEGISLATIVE ANALYSIS

*ORDINANCE PERTAINING TO PARK IMPACT FEE; AMENDING CHAPTER 33H OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; UPDATING LAND AND IMPROVEMENT COSTS; MODIFYING DEFINITIONS, PARK IMPACT FEE SCHEDULE, CONTRIBUTIONS IN LIEU OF IMPACT FEE; PROVIDING FOR AUTOMATIC ADJUSTMENT OF FEE BASED ON CONSUMER PRICE INDEX AND OTHER CREDITS; PROVIDING ANNUAL PUBLIC COMMENT ON IMPACT FEE REPORT; PROVIDING APPLICABILITY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE*

Park and Recreation Department

### I. SUMMARY

- The park impact fee has not been adjusted since 1994.
- The proposal represents a significant increase in the park impact fee, which must be paid before a residential building permit is issued in an unincorporated area.
- The proposal requires the Manager to periodically adjust the park impact fee according to the Consumer Price Index (CPI), which becomes effective on October 1 of each year, unless otherwise directed by the Commission.
- The initial fee adjustment applies to FY2006-2007, with a phase-in of 3 years.
- The Manager must conduct a public meeting to present a financial and management report on the park impact fee and to receive public comment.

### II. PRESENT SITUATION

Chapter 33H of the Code relates to the Park Impact Fee Ordinance, which applies only to the development of property for residential use located within the boundaries of the unincorporated area of the County. The purpose is to "require that future residential growth contribute its fair share to the cost of additions and improvements to the County's public park system in amounts reasonably anticipated to offset the impacts and demands generated by such growth."

The Manager shall periodically review the park impact fee ordinance and manual, and make recommendations for revisions to the Commission. The Commission has not revised the schedules of fees or related tables since 1994, resulting in fees that do not reflect the costs of providing park services to residents of the unincorporated areas.

The park impact fee schedule is the combined park open space fee and the park improvement fee, based on a per dwelling unit. Based on greater population density per unit, the fees for single-family detached dwellings are highest, single family attached dwellings are less, and multi-family dwellings are the lowest.

The fee payer may request the Director of the Park and Recreation Department to determine if a fee payer can get credit for improvements to a local park or pay park improvement fees, or a combination. The Director has 30 days to make a determination.



Each feepayer shall pay an administrative fee of 7.5% in addition to the park impact fee.

### **III. POLICY CHANGE AND IMPLICATION**

The proposal represents a significant increase in the park impact fee, for all type dwelling units, which must be paid before a residential building permit is issued in an unincorporated area.

The proposal requires the Manager to periodically adjust the impact fee schedule, the open space costs table and the improvement costs table, according to changes in the Consumer Price Index. The park impact fee will also be periodically adjusted to reflect changes in the tax credit for park capital improvements. Unless otherwise directed by the Commission, these adjustments will be effective on October 1 of each year.

The initial adjustments apply to the FY 2006-2007 County budget, with a phase-in of three years (60%, 80%, and 100%). The adjusted impact fee schedule will be kept on file with the Department of Planning and Zoning, Impact Fee Administration Office, so that those seeking to pull a permit will know the proper fee.

Within 120 days of the end of a fiscal year, the Office of Capital Improvements must submit a financial and management report to the Manager on the park impact fee trust funds. The Manager must conduct a public meeting to present a financial and management report on the park impact fee and to receive public comment on the report and the program. The Manager must then report to the Commission and advise it of recommended changes.

Projects involving less than 50 residential units or less must pay the park improvement fee, and cannot request a determination regarding credits for improvements to local parks. Projects involving 50 or more can still request such a determination.

The proposal also makes several technical changes to the section on definitions.

### **IV. ECONOMIC IMPACT**

According to the Impact Fee Office, the annual amount collected for the park impact fee is \$8 million per year. The proposal would increase revenue to \$15.5 million per year. Due to the incorporation of new municipalities, the area subject to the fee decreases, and therefore total revenue would not increase in the same proportion as the increase in fees.

The adjustment for CPI may not accurately reflect the specific cost factors in providing park services (the purchase of open space, and the itemized breakdown of improvement costs). Given the sharp increase in real estate values in Miami-Dade County, the CPI will likely underestimate the increases in specific cost factors.

## V. COMMENTS AND QUESTIONS

The proposal requires the Manager to periodically adjust the park impact fee *ordinance* and manual. Under the County Charter, the Commission cannot delegate to the Manager, or other entity, the power to amend an ordinance. Therefore, the ordinance itself will not change until amended by the Commission. However, since the proposal does not provide any discretion in the periodic adjustment of the fee schedule and tables, the Commission can delegate to the Manager the *ministerial duty* of making these adjustments.

In 33H-4(h)(5), the proposal provides for a periodic adjustment of the amount of the tax credit for the local park open space monetary fee, as found in 33H-6(a)(1). The formula for the fee has the amount reduced by crediting ad valorem taxes paid for capital expansion of local parks. Though phrased differently, this is intended to be the same amount described as credit for outstanding debt from General Obligation Bonds for park capital projects.

The proposal does not provide for a periodic adjustment of population density in new Table 2 (for persons per dwelling unit). Currently the population density "shall be in accordance with the latest available census data." Such data is not annually revised by the U.S. Census Bureau, so the proposal reflects data from the 2000 decennial census.

**LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT**

*ORDINANCE GRANTING ENTERPRISE ZONE AD VALOREM TAX EXEMPTION  
UNDER ORDINANCE 96-74 FOR R.K.M.R., INC. d/b/a HIGH TECH ELECTRONICS.*

Office of Community and Economic Development

*ORDINANCE GRANTING ENTERPRISE ZONE AD VALOREM TAX EXEMPTION  
UNDER ORDINANCE 96-74 FOR LEASA INDUSTRIES CO., INC.*

Office of Community and Economic Development

**I. SUMMARY**

The Office of Community and Economic Development (OCED) recommends that the Board of County Commissioners (BCC) approve the ordinances granting Enterprise Zone Ad Valorem Tax Exemption to R.K.M.R., Inc. d/b/a High Tech Electronics and LEASA Industries Co., Inc.

**II. PRESENT SITUATION**

The Enterprise Zone Ad Valorem Tax Exemption was authorized by the BCC through Ordinance 88-27 and revised under Ordinance 96-74. In order to be eligible for the exemption, a new or expanding business must create a minimum of five (5) new full-time jobs. If 20% or more of the company's employees are residents of an Enterprise Zone, the exemption for that year will be 100% of the assessed value of all improved real property or tangible personal property. If the company does not meet the 20% rule, then its exemption will be limited to 50% of the assessed value. OCED will monitor the firm's compliance during the life of the exemption.

**III. POLICY CHANGE AND IMPLICATION**

None.

**IV. ECONOMIC IMPACT**

BCC Item	4(Q)	4(R)
Company	R.K.M.R., Inc. d/b/a High Tech Electronics	LEASA Industries Co., Inc.
Projected Total Jobs	9	73
Projected New Jobs	9	31
EZ Employees	5 (55%)	39 (53%)
Total New Investment	\$150,000	\$60,000
Term	5 years	5 years
Exemption Per Year	\$374.41	\$463.00

**V. COMMENTS AND QUESTIONS**

None.

## LEGISLATIVE ANALYSIS

*ORDINANCE AMENDING SECTION 2-8.1(I) OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING FOR APPROPRIATE REFERENCE TO THE SMALL BUSINESS ENTERPRISE PROGRAM; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE*

Procurement Management Department

### I. SUMMARY

This Ordinance replaces the references to Minority Business Enterprise, Black Business Enterprise, Hispanic Business Enterprise, and Women Business Enterprise, with Small Business Enterprises in Sec. 2-8.1(i) of the Code, relating to the Code of Business Ethics.

### II. PRESENT SITUATION

On August 20, 2004, in the *Hershell Gill* decision, a federal judge ruled that three of the County's programs in contracts were applied in an unconstitutional manner: Black Business Enterprise, Hispanic Business Enterprise, and Women Business Enterprise programs (collectively referred to as Minority Business Enterprise, or MBE).

In its decision, the judge found the County lacked the required evidence of discrimination against Black, Hispanic and Women owned architectural and engineering firms which would justify the application of program measures to assist those firms. The judge permanently enjoined the County from using the race, ethnic and gender based program measures that favor MBEs.

On February 1, 2005, the Commission created the Small Business Enterprise program (SBE) in response to *Hershell Gill*, to address the needs of certain small businesses without relying on the prohibited program measures of the MBE programs.

### III. POLICY CHANGE AND IMPLICATION

This Ordinance replaces the references to Minority Business Enterprise (MBE), Black Business Enterprise (BBE), Hispanic Business Enterprise (HBE), and Women Business Enterprise (WBE), with Small Business Enterprise (SBE) in Sec. 2-8.1(i) of the Code, relating to the Code of Business Ethics.

### IV. ECONOMIC IMPACT

None.

### V. COMMENTS AND QUESTIONS

None.

## LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

### *RESOLUTION ACCEPTING THE FINDING OF NECESSITY STUDY FOR THE BISCAYNE CORRIDOR AREA AND APPROVING THE PREPARATION OF A COMMUNITY REDEVELOPMENT PLAN.*

Office of Community and Economic Development

#### I. SUMMARY

The Board of County Commissioners (BCC) directed the County Manager in July 2004 to prepare a Finding of Necessity study as required by the Community Redevelopment Act of 1969 (the "Act") for the Biscayne Corridor area.

- Miami-Dade County Procurement issued a contract to Curtis & Kimball to prepare the aforementioned study.
- The study concluded that slum and blight does exist in this area.

#### II. PRESENT SITUATION

The Act authorizes counties and municipalities in the State of Florida to create community redevelopment agencies and to prepare redevelopment plans for certain defined areas. The purpose of these redevelopment projects is to prevent and possible eliminate the development of slum and blighted areas.

The Act also authorizes the County to delegate redevelopment after a finding has been made determining that slum or blight exists, according to the Finding of Necessity study:

- **Biscayne Corridor Area** slum and blight exists in the form of inadequate street layout, parking facilities, roadways, bridges or public transportation facilities; faulty lot layout in relation to size, adequacy, accessibility or usefulness; unsanitary and unsafe conditions; deterioration of site or other improvements.

#### III. POLICY CHANGE AND IMPLICATION

In order for the County to proceed with Community Redevelopment, the Board must adopt the Finding of Necessity Report and approve the respective Community Redevelopment Plan.

#### IV. ECONOMIC IMPACT

Miami-Dade County staff has reviewed the reports and submitted them to the Tax Increment Financing and Coordination Committee for further review. The County's Tax Increment Financing Coordinating Committee reviewed the Finding of Necessity report and recommended its acceptance by the Board.

#### V. COMMENTS AND QUESTIONS

None.

## LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT

*RESOLUTION AUTHORIZING THE AWARD OF AGREEMENTS TO OPERATE MICRO LOAN PROGRAM, AMENDING THE CDBG FY 2002 AND 2004 ACTION PLANS, AND AUTHORIZING \$274,572 IN CDBG FY 2005 FUNDING FOR THE PROGRAM.*

Office of Community Economic Development

### I. SUMMARY

This resolution authorizes the County Manager to contract Partners for Self-Employment, Inc. d/b/a Micro Business USA and Accion USA to administer the County's Micro Loan program. This resolution also reallocates \$325,428 in recaptured funds from the 2002 and 2004 Micro Loan Programs to the fiscal year 2005 Micro Loan Program.

- Total of both contracts (including recaptured funds): \$600,000.
- **Partners for Self-Employment, Inc. d/b/a Micro Business USA** will receive \$400,000 to administer the program;
- **Accion USA** will receive \$200,000 to administer the program.
- *Contract term: 1 year, renewable for up to 5 years on an annual basis.*

### II. PRESENT SITUATION

Partners for Self-Employment, Inc. d/b/a Micro Business USA was selected in 1999 to administer the County's Micro Loan Program after a competitive process. That one-year contract, with five annual options to renew, expired in 2004.

In a January 2005 Request For Application (RFA) process, Partners for Self Employment, Inc. d/b/a Micro Business USA and Accion USA were the two companies who scored the highest.

### III. POLICY CHANGE AND IMPLICATION

This item is consistent with County policy regarding the RFA process and the Micro Loan Program.

### IV. ECONOMIC IMPACT

The program is being funded with CDBG dollars.

### V. COMMENTS AND QUESTIONS

- The County's Micro Loan Program is popular among local entrepreneurs and small businesses.

**BCC ITEM 5(N)**

**June 7, 2005**

- The Federal micro-loan program, which is administered by the Small Business Administration (SBA), may be shut down completely in October (*see attached article*).
- The Board of County Commissioners passed a resolution in September 2004, urging the President and the United States Congress to restore funding to the SBA Micro Loan Program as part of the 2005 federal budget.

Paper: Miami Herald, The (FL)  
Title: MICROLOANS PROVIDE MASSIVE ASSISTANCE  
Date: April 18, 2005

Marlene Ramirez can radically change a person's mood with little more than needle and thread. Since opening an alterations shop in Coral Gables five months ago, she has seen it happen often.

"A customer will come in and say, 'I feel a little fat,' and I'll tell them, 'We'll just bring your dress in here, lengthen it there and you'll look great.' I've always thought this job is about helping people transform," she said.

That's why she named her shop Alter Ego.

But Ramirez's own transformation might not have happened without a microloan - a very small loan designed to jump-start entrepreneurs' businesses.

Just three years ago, she was a Colombian refugee working multiple menial jobs and trying to get someone to believe in her project.

"I went to at least five different banks and they all had their reasons for not lending me money," she said. "Either I didn't have a credit history, or they wanted a two-year employment history. It was always something."

Finally, Ramirez stumbled across a nonprofit called Acción USA, which lent her \$5,200. She used the money to buy two sewing machines and some supplies, and the seeds of Alter Ego were planted.

#### TAKING ACCION

Acción USA is one of a handful of organizations in South Florida that provide small loans to people with little or no credit history or a checkered financial past.

Since it began operating here in 2003, Acción has given out some 400 loans worth \$1.8 million, said Luz Gomez, the organization's Miami director.

"All of our clients basically don't have access to bank credit," she said. "Maybe they're new immigrants, or have a troubled credit history due to a divorce or a bankruptcy. Or perhaps it's the loan's size; many commercial banks won't consider loans this small."

In coming months, groups such as Acción USA will become increasingly important to fledgling entrepreneurs as the Small Business Administration loses funding for its own microlending program.

In 2004, SBA intermediaries lent \$317,000 to 112 small businesses in South Florida through the micro-loan 7(m) program. But unless Congress passes additional funding, the program will shut down in October, the beginning of the new fiscal year.

"There is duplication and overlap in several of our programs," said Bruce Purdy, the SBA's acting chief of micro-enterprise and development in Washington, D.C. "What the administration is trying to do is consolidate and make sure resources are maximized."

#### REPLACEMENT PLAN

What the SBA is offering as a replacement is the Community Express Program.

Under that plan, entrepreneurs can borrow up to \$35,000, including \$25,000 without collateral, through SBA-certified lenders. And while the SBA guarantees up to 85 percent of such loans, the catch is that individual banks have to approve them.

And there's the rub, said John Brown, the president and CEO of the Business Loan Fund of the Palm Beaches - a micro-



enterprise lender that counts on the SBA's support.

"The [Community Express] program is through banks, and people with imperfect credit are not going to qualify," he said.  
"That's why we exist, to help people who banks are saying no to."

The Loan Fund makes an average of 45 loans per year and provides training and technical assistance to an additional 200 to 300 entrepreneurs.

"If we start cutting aid to startups and people who want to expand their business, I think it's going to be chaotic - unless we find another pot of money," Brown said.

#### SOME PROGRESS

Still, by most accounts, the Community Express Program has been a success. Its popularity helped boost SBA loans in South Florida by 17 percent during the first half of the fiscal year.

And at a time when the SBA is smarting over accusations that it favors larger companies, the program's cap has helped rein in the average loan size to \$133,000 - versus \$295,000 just two years ago.

"The number of loans are increasing and the size of the loans are decreasing," said John Dunn, the assistant director of the SBA's South Florida District Office. "What that tells us is that we're reaching small businesses. . . . We're not too concerned that they haven't funded [the microlending program]."

But according to Diane Silverman, the acting director of Florida International University's Institute for Community Innovation, the Community Express program misses the point.

"The whole value of microlending is to build low-income people up to the point where they can get money from the banks," she said. "Banks are not going to give these people money otherwise."

Although the SBA didn't help Ramirez launch Alter Ego, it strikes her as odd that private donors seem to be doing more for micro-entrepreneurs than the U.S. government.

"It makes me sad to think about people out there who might be struggling to do something with their lives but can't," she said. "For me, having my own business really is the American dream."

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Section: Business Monday  
Page: 12G  
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## LEGISLATIVE ANALYSIS

*ORDINANCE AMENDING SECTION 26-33 OF THE CODE OF MIAMI-DADE COUNTY RELATING TO THE PROGRAMMING PARTNERSHIP PROGRAM; IMPOSING IDENTIFICATION REQUIREMENTS AND REQUIRING PROOF OF LEGAL IMMIGRANT STATUS ON PERSONS VOLUNTEERING AND WORKING FOR PROGRAMMING PARTNERS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE*

Commissioner Javier D. Souto

### I. SUMMARY

U.S. employers must check to make sure all employees, regardless of citizenship or national origin, are allowed to work in the United States. Certain persons may need a work permit to prove they are authorized work in the United States, and certain persons are excepted from needing a work permit.

This ordinance provides that all Programming Partner staff must show proof of legal immigrant status. It also provides that Programming Partner staff and permanent volunteer coaches must wear photo identification while on County property and when in direct contact with program participants.

### II. PRESENT SITUATION

Programming Partners. This program provides a vehicle for the Park and Recreation Department to build collaborative relationships with Programming Partners through a process that fosters quality, equity and diversity in recreational and cultural programming opportunities, while ensuring that both the County and its Partners are accountable for the stewardship of County Park and Recreation Facilities. Programming Partners are not-for-profit program service providers that are selected by the Department to provide programs in County Park and Recreation Facilities. (See Chapter 26, Article II of the Code, Programming Partner Program, and Administration Order 3-36)

According to the Park and Recreation Department, most Programming Partner organizations are volunteer organizations for youth-oriented activities at County parks.

### III. POLICY CHANGE AND IMPLICATION

This ordinance provides that:

- All Programming Partner staff must show proof of legal immigrant status.
- The programming Partner shall keep the records of background checks (already required of staff and volunteers with direct contact with program participants), proof of immigration status.
- Programming Partner staff and permanent volunteer coaches must wear photo identification while on County property and when in direct contact with program participants.

#### **IV. ECONOMIC IMPACT**

None.

#### **V. COMMENTS AND QUESTIONS**

The proposal does not specifically require the Programming Partner organization to provide the picture identification for staff and permanent volunteer coaches, only that such persons wear one. However, both the staff memorandum and IRCA committee discussion anticipated that the Programming Partners must provide the photo identification. Programming Partner organizations may not currently have a system of picture identification for their staff or coaches.

The proposal does not require temporary volunteer coaches and other volunteers with direct contact with program participants to display picture identification.

This proposal reflects amendments that addressed concerns raised in committee over a work permit requirement.

## LEGISLATIVE ANALYSIS

*ITEM 7(E) ORDINANCE CREATING PROGRAM FOR EXPEDITED REVIEW AND APPROVAL OF BUILDING PERMIT APPLICATIONS FOR GREEN BUILDINGS; DEFINING GREEN BUILDINGS; PROVIDING FOR ADMINISTRATIVE ORDER; CREATING SECTION 8-8 OF THE CODE.*

Commissioner Katy Sorenson

*ITEM 9(D)(1)(A) RESOLUTION AMENDING ADMINISTRATIVE ORDER 4-120: BUILDING PERMIT PROCESS ALTERNATIVES*

Building Department

### I. SUMMARY

Items 7(E) and 9(D)(1)(A) should be addressed collectively.

Item 7(E) proposes an Ordinance that creates Section 8-8 of the Code of Miami-Dade County, allowing for the creation of an expedited permit program for structures that incorporate environmentally sensitive design and construction methods.

Item 9(D)(1)(A) proposes a Resolution that revises Administrative Order 4-120, incorporating Section 8-8 of the Code, allowing for the expedited review of permit applications for green buildings to be implemented by the Building Department.

### II. PRESENT SITUATION

Presently the Miami Dade County Building Code does not address green buildings. One of three methods can be employed to expedite the Building Department's permitting process:

- Section 8-7 of the Code allows for a County Department Director to request an expedited process in respect to the construction, alterations, or repair of County owned buildings;
- Administrative Order 4-120 allows for the owner to take advantage of the Professional Certification Program, utilizing a registered person to review the permitting plans and inspect the building's construction;
- Administrative Order 4-120 also allows for the Optional Expedited Plan Review Program.

In the Professional Certification Program, the Building Department functions as the quality control measure, performing audit reviews of at least 20% of the permitting plans submitted. The Building Department reviews all plans submitted under the Optional Expedited Plan Review Program.

The Professional Certificate Program, although not considered an expedited procedure but an alternative, has the added effect of accelerating the permitting process. Once registered, the person reviewing and inspecting the structure sets their own schedule for review.

### **III. POLICY IMPLICATIONS**

Section 8-8 of the Code will define and address the expedited permitting process of green buildings.

The proposed revision of Administrative Order 4-120, Building Permit Process Alternative, will integrate Section 8-8 of the Code, the expedited permitting process for green buildings.

### **IV. ECONOMIC IMPACT**

No additional staff or monies would be required to handle the additional review of green buildings.

### **V. COMMENTS AND QUESTIONS**

The Building Department will not have the additional responsibility to determine if a building meets the criteria to be considered a green building. The applicant will have to submit a letter from the Florida Green Building Coalition or the United States Green Building Council indicating that the design has been registered or certified as a green building at the time submitting expedited permit review application.

## LEGISLATIVE ANALYSIS

*ORDINANCE RELATING TO RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE*

Chairman Joe A. Martinez

### I. SUMMARY

The 4-Day Rule requires a copy of each agenda item be delivered to the Commission not later than 4 days before a vote may be called. The Ordinance amends Rule 5.05(b)(2) regarding the placement of certain items on the agenda which were not delivered in accordance with the 4-Day Rule, or not considered by a committee:

- Expands the exceptions to include items not subject to committee review, board appointments, office allocations, reports and supplements;
- Replaces the provision that such items will be placed on the agenda upon the signature of seven Commissioners, with a provision requiring the written concurrence of the responsible committee chair, if any, and the Commission Chair;
- Deletes the provision regarding items not delivered in accordance with the 4-Day Rule and sponsored by the Manager.

Amending the Rules of Procedure requires a two-thirds vote.

### II. PRESENT SITUATION

Sec. 2-1 of the Code provides for the rules of procedure for the Commission. Rule 1.01 provides that these rules may be amended by a two-thirds vote of the entire Commission, except that in October or November of any even numbered year amendments may be made by a majority vote of the entire Commission.

The 4-Day Rule, Rule 5.05(c), requires a copy of each agenda item be delivered to the Commission not later than 4 days before a vote may be called. It is not applicable to special or emergency meetings. This rule is waived unless a Commissioner asserts its provisions prior to the Board taking action. The 4-Day Rule may not be waived under Rule 7.01(n), which provides for suspension of the rules by two-thirds vote of the Commissioners present.

Rule 5.05(b)(2) of the Rules covers proposed agenda items not delivered to the members of the Commission in accordance with the 4-Day Rule, and those not considered by a committee (with exceptions).

Rule 5.05(b)(2) provides that proposed items not delivered in accordance with the 4-Day Rule, and those not considered by a committee (except for alternates, substitutes, board appointments, and office allocations) shall not be placed on the agenda unless

## **BCC ITEM 7(F)**

**June 7, 2005**

accompanied by the signatures of seven Commissioners. Proposed items not delivered in accordance with the 4-Day Rule (except for alternates, substitutes, reports and supplements) and are sponsored by the Manager shall not be placed on the agenda unless the Manager certifies that the item is time sensitive or is an emergency. These items need a two-thirds vote of the Commissioners present.

### **III. POLICY CHANGE AND IMPLICATION**

The Ordinance amends Rule 5.05(b)(2) regarding items not delivered in accordance with the 4-Day Rule, or not considered by a committee, as follows:

- Expands the exceptions to the rule from specifically including items of board appointments and office allocations, to a more general exception to include items not subject to committee review (which includes board appointments, office allocations, reports and supplements), and retains the specific items of alternates and substitutes;
- Replaces the provision that such items will be placed on the agenda upon the signature of seven Commissioners, with a provision requiring the written concurrence of the responsible committee chair, if any, and the Commission Chair;
- Deletes the provision regarding items not delivered in accordance with the 4-Day Rule and sponsored by the Manager. Such items also will be placed on the agenda upon the written concurrence of the responsible committee chair, if any, and the Commission Chair.

### **IV. ECONOMIC IMPACT**

None.

### **V. COMMENTS AND QUESTIONS**

None.

June 7, 2005

**LEGISLATIVE ANALYSIS AND ECONOMIC IMPACT STATEMENT**

*ORDINANCE GRANTING ENTERPRISE ZONE AD VALOREM TAX EXEMPTION UNDER ORDINANCE 96-74 FOR WKL II AND ASSOCIATES, INC. d/b/a DENNY'S RESTAURANT.*

Office of Community and Economic Development

*ORDINANCE GRANTING ENTERPRISE ZONE AD VALOREM TAX EXEMPTION UNDER ORDINANCE 96-74 FOR PUBLIX SUPERMARKETS, INC.*

Office of Community and Economic Development

**I. SUMMARY**

The Office of Community and Economic Development (OCED) recommends that the Board of County Commissioners (BCC) approve the ordinances granting Enterprise Zone Ad Valorem Tax Exemption to WKL II and Associates, Inc. d/b/a Denny's Restaurant and Publix Supermarkets, Inc.

**II. PRESENT SITUATION**

The Enterprise Zone Ad Valorem Tax Exemption was authorized by the BCC through Ordinance 88-27 and revised under Ordinance 96-74. In order to be eligible for the exemption, a new or expanding business must create a minimum of five (5) new full-time jobs. If 20% or more of the company's employees are residents of an Enterprise Zone, the exemption for that year will be 100% of the assessed value of all improved real property or tangible personal property. If the company does not meet the 20% rule, then its exemption will be limited to 50% of the assessed value. OCED will monitor the firm's compliance during the life of the exemption.

**III. POLICY CHANGE AND IMPLICATION**

None.

**IV. ECONOMIC IMPACT**

BCC Item	7(G)	7(H)
Company	WKL II and Associates, Inc. d/b/a Denny's Restaurant	Publix Supermarkets, Inc.
Projected Total Jobs	8	45
Projected New Jobs	8	45
EZ Employees	3 (37.5%)	14 (31%)
Total New Investment	\$2,100,000	\$4,900,000
Term	5 years	5 years
Exemption Per Year	\$4,473.19	\$28,767.45



BCC ITEMS 7(G), 7(H)  
June 7, 2005

V. COMMENTS AND QUESTIONS

None.

## LEGISLATIVE ANALYSIS

### *AMENDMENTS TO THE COMMUNITY SMALL BUSINESS ENTERPRISE (CSBE) PROGRAM ORDINANCE.*

Business Development

#### I. SUMMARY

This amendment to Section 10-33.02 of the Miami-Dade County Code pertaining to County construction contracts and the Community Small Business Enterprise (CSBE) Program will implement the following:

- Expand the financial assistance services to include short-term loans guaranteed by the County;
- Increase eligibility of Level II and Level III CSBE firms to compete for smaller specialty trade contracts by allowing them to bid on contracts above \$50,000 (previously were not able to bid on anything below \$750,000); and
- Include "Material and Debris Hauling" as part of construction related trades.

#### II. PRESENT SITUATION

The CSBE Advisory Board would like to expand Level II & III firm's opportunities to compete for CSBE set-aside contracts. This is because once a firm goes from the Level I category to a Level II or III category their opportunities decline drastically.

Currently, the majority of contracts that are set-aside for participation by CSBE's and the majority of the 7040 Miscellaneous Construction Contracts are awarded to Level I CSBE firms. This is due in part to the dollar amount of these contracts falling below \$750,000. The certification size standards and contracting participation levels will remain unchanged.

- According to staff, Level II and Level III CSBE firms participate in under 25% of all construction contracts and less than 1% of specialty trades contracts.

#### III. POLICY IMPLICATIONS

##### CSBE Firm Participation

The proposed amendments would allow the larger (Level II and III) CSBE firms to compete for smaller specialty trade contracts above \$50,000, which they could not bid on before.

##### Financial Aspect

The County would be the Guarantor for low to moderate risk firms in order to enable them to have a better opportunity to get loans. Direct County financial assistance to CSBE's was considered, but was not recommended because assisting them to obtain commercial loans would establish relationships with a financial institution and strengthen credit history.

**IV. ECONOMIC IMPACT**

- The County would guarantee 85% and as such would be liable for that percentage in the event of the CSBE Firm going bankrupt etc.
- The collateral for these loans is the actual contract.

**V. COMMENTS**

- Unintended consequences could be that much fewer contracts would be awarded to the smaller Level I Firms.
- An option to explore is guaranteeing only the Level I Firms loans or in the alternative, Guarantee a lower percentage for the Level II & III Firms.

## LEGISLATIVE ANALYSIS

### *FIRST AMENDMENT TO DEVELOPMENT LEASE AGREEMENT WITH AIR SAL, INC AT KENDALL-TAMIAMI EXECUTIVE AIRPORT*

Aviation Department

#### I. SUMMARY

This resolution being recommended for approval by the BCC is the First Amendment to the Development Lease Agreement with Air Sal, Inc. This amendment addresses a concern of consistency within the Change of Ownership clause in their lease agreement.

#### II. PRESENT SITUATION

- In 1998, the BCC passed Resolution 949-98 approving a 25-year Development Lease Agreement (No. T-131) between Miami-Dade County and Air Sal, Inc for four (4) T-hangers.
- SECTION 9.03 (Change of Ownership) of the Development Lease Agreement requires the lease agreement to automatically terminate upon Air Sal's successful transfer of ownership or control, irrespective of County approval.
- Air Sal, Inc. is currently the only tenant on the north side of the airport that has developed aeronautical use buildings.
- Subsequent to Air Sal's lease agreement, Falcon Trust Air and Tamiami Air both agreed to lease agreements with the Aviation Department allowing them to develop T-hangers on the south side of the airport.
- Both Falcon Trust Air and Tamiami Air's lease agreements contain language allowing them to sell their business prior to County approval of the purchaser(s).

#### III. POLICY IMPLICATIONS

- The Aviation Department has recommended that we amend the lease agreement we currently have with Air Sal, Inc. to provide consistent, nondiscriminatory treatment among all similarly situated tenants.
- The department has expressed that Air Sal has been a tenant of the Tamiami Executive Airport for some time and they are not aware of Air Sal's desire to sell.

#### IV. ECONOMIC IMPACT

N/A

**June 7, 2005**

**V. COMMENTS**

- In the past, tenants at the Tamiami Executive Airport have expressed being slighted of maintenance services and other resources.

AIRNAV.COM

Airports

NavAids

Airspace Fixes

Aviation Fuel

## Air Sal

### at Kendall-Tamiami Executive Airport

#### Services

- Aviation fuel
- Aircraft parking (ramp or tiedown)
- Hangars
- Hangar lease/sales
- GPU / Power cart
- Passenger terminal and lounge
- Aircraft maintenance
- Aircraft cleaning / washing / detailing
- Aircraft parts
- Catering
- ...

#### Aviation fuel services

Brand: Chevron

Fueling hours: 24 hours a day

Fuel prices as last reported on 14-Apr-2005

100LL Avgas Self service \$3.20Jet A Self service \$3.10

Discounts: \$0.25 per gal (100LL) for T-Hangar tenants

Prices include all taxes. Prices not guaranteed.

#### Contact information

Address: 14005 SW 127th St  
Miami, FL 33186  
United States of America

Telephone: (305) 251-1982

Fax: (305) 251-1966

Email: [airsal@bellsouth.net](mailto:airsal@bellsouth.net)

#### Comments from AirNav users

Comments are submitted by their authors and do not reflect the opinion of AirNav, LLC. All comments must adhere to AirNav's Policy on Comments.

AirNav's standard comment retention period is 3 years.

#### From Dean Maheras on 25-Feb-2005

Fuel depot right there as you taxi in. Definitely a great place to stop to fuel you and your plane.

#### From Dr. Vaughn DeCoster on 16-Jan-2005

No one was around when I arrived, almost went to one of the other FBOs. Not open on weekends either. It's like a self-serve FBO, but the fuel was \$2.68 (self-serve) in Miami! However, tie-down

**LEGISLATIVE ANALYSIS**

***RESOLUTION APPROVING THE ASSIGNMENT OF INTERAMERICAN CAR RENTAL COMPANY, INC MEMORANDUM OF UNDERSTANDING (MOU) TO GLOBAL RENT-A-CAR COMPANY, INC (GLOBAL).***

Aviation Department

**I. SUMMARY**

This resolution approves the assignment of InterAmerican Car Rental Company, Inc.'s Memorandum of Understanding (MOU) for the Rental Car Facility (RCF) to Global Rent-A-Car Company, Inc.

**II. PRESENT SITUATION**

- In 2004, Global approached the Aviation Department (MDAD) and expressed their interest in the future RCF. The deadlines for the RCF lapsed in 2001. Alternative methods were provided to Global to allow them the opportunity to participate in the RCF.
- On February 25, 2005, InterAmerican Car Rental, Inc. and Global Rent-A-Car agreed to an assignment for the Memorandum of Understanding RCF position.
- MDAD, Global, and the other current companies participating in the RCF have discussed Global's assignment and the opportunity to participate in InterAmerican's position.
- After a number conference calls and meetings by the participating parties a collective consensus has been made to allow Global the opportunity to participate in the RCF.

**III. POLICY IMPLICATIONS**

- This resolution approves and validates the assignment between InterAmerican and Global for the RCF Memorandum of Understanding position.

**IV. ECONOMIC IMPACT**

- Global has applied for certification as a Local Small Car Rental (LSCR).
- Global's LSCR certification is currently pending and they will be required to pay 9% opportunity fees (rather than the 4.5%) until their LSCR certification has been granted.

**BCC ITEM 8A(1)D**  
**June 7, 2005**

**V. COMMENTS**



## LEGISLATIVE ANALYSIS

*RESOLUTION AUTHORIZING EXECUTION OF AN AMENDMENT TO LEASE AGREEMENT AT 2125 BISCAYNE BOULEVARD; SUITE 400, MIAMI, WITH TOY 13, INC., A FLORIDA CORPORATION, FOR PREMISES UTILIZED BY THE DEPARTMENT OF HUMAN SERVICES FOR ITS FAMILY AND VICTIM SERVICES PROGRAM; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN*

General Services Administration Department

### I. SUMMARY

This Resolution approves an increase of \$43,798.32 in the lease agreement to operate the Family and Victim Services Program at 2125 Biscayne Boulevard, Ste. 400.

### II. PRESENT SITUATION

For the utilization of 10,795 square feet of office space, the Department of Human Services (DHS) is charged an annual rent of \$205,104.96 (\$19 per square foot).

### III. POLICY CHANGE AND IMPLICATION

The amended lease extends the terms of the lease agreement for an additional two years commencing on July 1, 2005 to June 30, 2007. For the utilization of the same 10,795 square feet of office space, DHS will be charged an annual rent of \$245,658.96 (\$22.76 per square foot). This represents an increase of approximately 20%. The increase of \$43,798.32 is composed of the additional lease rent of \$40,554.00 and management fees of \$3,244.32.

GSA states that the increase is due to the increase in market rates of properties in the surrounding area; however, the terms of the proposed lease is still lower than the market rents in the area, reported at \$28.00 per square foot.

DHS wishes to continue its utilization of this office space for the following reasons:

- Proximity to the Family Courthouse;
- Accessibility to public transportation;
- Adequate security, and
- Free parking for clients and staff.

**June 7<sup>th</sup>, 2005**

**IV. ECONOMIC IMPACT**

An increase of \$43,798.32 in the rental cost of office space.

**V. COMMENTS AND QUESTIONS**

Due to the landlord's disinterest in renewing the proposed lease on June 30, 2007, staff will have to identify a new location for the Family and Victim Services Program.

June 7, 2005

## LEGISLATIVE ANALYSIS

*RESOLUTION APPROVING SETTLEMENT AGREEMENT IN THE AMOUNT OF \$100,000 BETWEEN MIAMI-DADE COUNTY AND GREAT AMERICAN INSURANCE COMPANY FOR CLAIMS RELATED TO GREAT AMERICAN'S INSURED, HEARD COMMUNICATIONS, INC., D/B/A GATEWAY OUTDOOR ADVERTISING, FOR OUTSTANDING PAYMENTS TO MIAMI-DADE TRANSIT UNDER CONTRACT NO. TA92-OMT*

Miami-Dade Transit Agency

### I. SUMMARY

This item seeks approval of a settlement with Great American Insurance Company (Great American) for \$100,000.

Great American provided insurance for Heard Communications, Inc. d/b/a **Gateway Outdoor Advertising (Gateway)** in conjunction with Gateway's contract (No. TA92-OMT), with the County, for advertising rights on Miami-Dade Transit Buses, as well as at Metrorail Stations.

### II. PRESENT SITUATION

In December 1991, the Board of County Commissioners approved contract TA92-OMT with Gateway Outdoor Advertising, Inc., allowing Gateway to sell and provide advertising on MDT Buses and at Metrorail Stations. The initial term of the contract was for 5 years through 1997. However, through options to renew and extensions, Gateway's contract was extended through 2001.

The contract called for Gateway to pay Miami-Dade County a Minimum Annual Guarantee (MAG) or 60% of the Gross Annual Revenues, whichever is greater.

**The MAG for the year 2000 was \$1,949,571 (or \$155, 338 per month).**

In April 2001, billing irregularities, late payments, and repeated failures by Gateway to meet the MAG resulted in an audit (No. A16702) by the County's Department of Audit & Management Services.

The audit revealed that Gateway had destroyed billing records and failed to comply with the County's request to review other records.

**In early 2002, Gateway filed for Chapter 11 bankruptcy. At the time, it was estimated that Gateway still owed the County \$1,154,884.**

**\*SEE ATTACHMENT 1**

June 7, 2005

### III. POLICY CHANGE AND IMPLICATION

This settlement would release Great American from any further obligation as it relates to their representation of Gateway and Gateway's on-going litigation with Miami-Dade County.

### IV. ECONOMIC IMPACT

The County would receive \$100,000 within 20 days, once the settlement agreement is executed and approved.

However, the County lost an estimated \$1.1 million in revenues as a result of Gateway's failure to live up to the terms of this contract.

### V. COMMENTS AND QUESTIONS

- *What was Great American's Policy Limit for it's coverage of Gateway?*
- *If the policy limit was only \$100,000, why did the County not require more coverage, given that \$100,000 did not even cover one (1) month of Gateway's proposed minimum guarantee?*
- *Wouldn't this settlement prejudice the County's position as it relates to the law suit against Gateway?*
- *If the County shows it is willing to accept pennies on the dollar, will Gateway be willing to accept a settlement that calls for more?*
- *Was there a performance bond associated with this contract?*

## ATTACHMENT1



## MEMORANDUM

TO: Danny Alvarez, Director  
Miami-Dade Transit Agency

DATE: June 26, 2001

FROM: *Cathy Jackson*  
Cathy Jackson, Director  
Audit and Management Services Department

SUBJECT: Audit Report - Heard  
Communications, Inc.  
d/b/a Gateway Outdoor  
Advertising

PURPOSE AND SCOPE

As requested, we conducted an audit of Heard Communications, Inc. d/b/a Gateway Outdoor Advertising (Gateway) for the three fiscal years ended September 30, 2000 to ascertain propriety of fees paid to Miami-Dade Transit Agency (MDTA) and assess the reasonableness of revenue projections presented in its September 2000 bid proposal. We also verified compliance with the MDTA Advertising Agreement dated December 23, 1991 for vehicles and Metrorail passenger stations.

The scope of our audit was limited by Gateway's noncompliance with Article 5, Section 5.05 - Reports of the Agreement, requiring customary accounting records be maintained, including balance sheets, profit and loss statements in conformity with generally-accepted accounting principles, during the term of the Agreement and for a minimum of three years after termination. Citing that cash receipts journals were destroyed after Gateway's annual external audit, we were unable to verify the accuracy of net revenues reported to the County during the audit period.

BACKGROUND

In 1991, the Board of County Commissioners (BCC) approved a five-year contract with Gateway to sell advertising space on MDTA vehicles and Metrorail passenger stations. Two additional two-year renewal options were approved extending the Agreement through December 31, 2000. Under the Agreement, the County received monthly the greater of a prorated annual minimum guarantee amount of \$1.75, \$1.81 and \$1.95 million for fiscal years 1998 through 2000, respectively, or 60% of net revenue. Amounts paid to the County for fiscal years 1998 through 2000 were \$1.70, \$1.12 and \$1.49 million, respectively. Commencing January 2001, Gateway was granted a one-year extension, including a 90-day termination clause to allow completion of the competitive bid selection process, with the understanding that the annual minimum guarantee would be increased to \$1.98 million or \$165,000 monthly.

In response to the Request for Proposal (RFP) dated July 21, 2000, conforming bids were accepted on September 22, 2000 from Gateway and Transportation Displays, Inc. (TDI). A bid submitted by Obie Media Corporation (Obie) was rejected due to non-compliance with County Disadvantaged Business Enterprise (DBE) certification requirements. The Selection Committee recommended that Gateway be awarded the new five-year contract based on technical and pricing aspects of its proposal.

Audit Report - Heard Communications, Inc.  
d/b/a Gateway Outdoor Advertising  
Page 2

### SUMMARY RESULTS

#### Percentage Fee Payments

Notwithstanding scope limitations discussed earlier, our audit disclosed Gateway currently owes the County \$744,387 in delinquent revenues (Table I).

Table I

	<u>Amount</u>
Minimum Guarantee - March through June 2001	\$659,359
Interest Charges	28,889
Unpaid Fee Remittance Due - October and November 1998	56,139
<b>Total Delinquent Revenues</b>	<b>\$744,387</b>

The Agreement requires Gateway to remit the annual minimum guaranteed amount in equal payments on the 1<sup>st</sup> day of each month and excess percentage revenues by the 20<sup>th</sup> of the following month. However our analysis disclosed payments were delinquent an average 61, 180 and 48 days, respectively, during each of the three years ended December 31, 2000. This notwithstanding, MDTA did not begin assessing the 18% interest penalty until April 2000, and since that time \$49,376 has been assessed, of which \$28,889 is outstanding.

Further, from January 1999 through August 1999 Gateway remitted only \$100,000 instead of the \$150,755 fee payments owed. Additionally, Gateway acknowledges it owes the County \$56,139 for revenues earned in excess of the minimum guarantee for October and November 1998.

#### Bid Revenue Projections

Projected revenues submitted by Gateway in its September 2000 proposal guarantees the County \$20 million over the five years, which is almost triple the \$7 million remitted for the previous comparable period (Table II).

Table II

<u>Previous Contract</u>		<u>Proposed Minimum Guarantee</u>			
<u>Year</u>	<u>Actual Payments</u>	<u>Contract Year</u>	<u>Gateway</u>	<u>Obia</u>	<u>TDI</u>
1996	\$ 1,279,657	1	\$ 2,500,000	\$ 1,857,000	\$ 2,100,000
1997	1,544,600	2	3,000,000	2,520,000	2,250,000
1998	1,754,060	3	4,000,000	3,410,000	2,500,000
1999	1,117,758	4	5,000,000	4,100,000	2,600,000
2000	1,493,445	5	6,000,000	4,559,000	2,700,000
	7,189,520		20,500,000	16,446,000	12,150,000
2001	1,978,076				
	<u>\$ 9,167,596</u>		<u>\$ 20,500,000</u>	<u>\$ 16,446,000</u>	<u>\$ 12,150,000</u>

Audit Report-- Heard Communications, Inc.  
d/b/a Gateway Outdoor Advertising  
Page 3

During the prior five-year contract period, Gateway remittances rarely exceeded the minimum guarantee. Gateway increased published rates 45% in 2001, however, based on monthly remittances to the County, the minimum annual threshold again will not be exceeded. This contradicts Gateway's projections submitted in September 2000, which assumes a 67% increase in the County's return (Table II) in the first year of the proposed contract (2001). Subsequent years reflect a 20%, 33%, 25% and 20% increase over each previous year's revenue. Except for disclosing that rates were increased 10% annually, Gateway would not divulge the methodology used in deriving its projections. Nonetheless, assuming significant sales volume growth, a 70% occupancy, comparable annual rate increases of 10%, a 30% discount rate and moderate fleet growth, the projections appear achievable.

As previously mentioned, Gateway did not make complete records available supporting reported revenues and thus, we were unable to determine propriety of revenues. Gateway's claim that it destroyed supporting records is not only a violation of contract terms, but conflicts with Internal Revenue Service regulations, which require such records be maintained for three years. Before MDTA management proceeds with contract negotiations, Gateway should bring payments current and be directed to make financial records available for further inspection.<sup>1</sup> Moreover, Administrative Order 3-29 prohibits awarding contracts to contractors in arrears until all monies owed are paid in full or the County has agreed with an approved payment plan.

Although Gateway plans to secure long-term financing to satisfy outstanding obligations, prior delinquent payment history raises doubts about its ability to meet proposed minimum annual revenue projections. To reduce the County's exposure, the Department should require a cash performance bond equivalent to the proposed annual minimum guarantee and strictly enforce assessment of penalties for late payments.

We would like to express our appreciation for the courtesies and assistance extended to our staff during the audit process. Please provide a written response within 30 days in accordance with Administrative Order 3-7. If you have any questions or need additional information, please contact Maria L. Reyes, Audit Manager, at 305-349-6128.

CJ:rmb

c: Tom David, Executive Assistant to County Manager  
Steve Spratt, Senior Assistant to County Manager  
Eric McAndrew, BCC Chief Legislative Analyst

<sup>1</sup>According to MDTA representatives, Gateway remitted two payments aggregating \$329,680 on June 25<sup>th</sup> and June 26<sup>th</sup>, reducing the amount outstanding to \$414,707.

## BCC ITEM 8(P)1(I) AND 8(P)1(J)

June 7, 2005

### LEGISLATIVE ANALYSIS

*ITEM 8(P)1(I) CHANGE ORDER NO. AND FINAL SAFETY LIGHTING RETROFIT  
CONTRACT NO. 1 PROJECT NO. 621610A*

*ITEM 8(P)1(J) CHANGE ORDER NO. AND FINAL SAFETY LIGHTING RETROFIT  
CONTRACT NO. 2 PROJECT NO. 621611A*

Public Works Department

#### I. SUMMARY

- These Change Orders will provide retroactive payments for projects that have been completed.

#### II. PRESENT SITUATION

- Both of these change orders involve contracts between Miami-Dade County and Horsepower Electric, Inc.
- Horsepower provided the services needed to upgrade existing street lighting in North Miami-Dade County and South Miami-Dade County to meet New Safety Standards. All work within these two respective contracts was completed as of March 15, 2004.
- On January 19, 2005, the County Manager issued debarment proceedings against Horsepower Electric, Inc.

#### III. POLICY CHANGE AND IMPLICATION

- There were many unforeseeable changes that were made subsequent to the contract being agreed to. The scope of work changed as a number of underground items made the project more complex and time consuming then agreed to within the original contract.
- Note both of these change orders are 1st and final for their respective contract(s).

#### IV. ECONOMIC IMPACT

*8(P)1(I) CHANGE ORDER NO. AND FINAL SAFETY LIGHTING RETROFIT  
CONTRACT NO. 1 PROJECT NO. 621610A (South Miami-Dade)*

➤ Original Contingency Fund:	\$ 90,909.09
<u>This Change Order (1<sup>st</sup> and Final):</u>	<u>\$167,900.91</u>
Total Amount for Change Order(s):	\$258,810.00



**BCC ITEM 8(P)1(I) AND 8(P)1(J)**

**June 7, 2005**

**8(P)1(J)** *CHANGE ORDER NO. AND FINAL SAFETY LIGHTING RETROFIT  
CONTRACT NO. 2 PROJECT NO. 621611A (North Miami-Dade)*

➤ <i>Original Contingency Fund:</i>	<i>\$ 90,909.09</i>
<i>This Change Order (1<sup>st</sup> and Final):</i>	<i>\$ 90,872.91</i>
<i>Total Amount for Change Order(s):</i>	<i>\$181,782.00</i>

**V. COMMENTS AND QUESTIONS**

- The department has expressed that this is the last of the Horsepower Electric, Inc. change orders/contracts they will be bringing before the BCC.

## LEGISLATIVE ANALYSIS

*RESOLUTION AUTHORIZING THE COUNTY MANAGER'S ACTION IN RECEIVING AND EXPENDING STATE FUNDS ALLOCATED FOR FISCAL YEARS 2005-2008 FOR THE JUVENILE ASSESSMENT CENTER (JAC); AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE CONTRACTS AND AGREEMENTS AND NECESSARY AMENDMENTS TO THE CONTRACTS*

Juvenile Services Department

### I. SUMMARY

This Resolution authorizes the County Manager to receive and expend State of Florida grant funds in the amount of \$2,187,000 over a three year period (\$729,000 per year) to the Juvenile Services Department beginning from July 1, 2005 to June 30, 2008.

### II. PRESENT SITUATION

Presently, the Juvenile Services Department (the 'Department') receives funding from the Florida Department of Juvenile Justice in accordance with Florida Statute 985.

The provided attachment gives a breakdown of the Department's sources of revenue.

### III. POLICY CHANGE AND IMPLICATION

This will allow the allocation of state funds over the next three years (July 1, 2005 to June 30, 2008) in the amount of \$729,000 per year (\$2,187,000 total) to help supplement the operations of the Department.

### IV. ECONOMIC IMPACT

The funding provided by the Florida Department of Juvenile Justice impacts the County positively.

### V. COMMENTS AND QUESTIONS

On May 3, 2005, the Board of County Commissioners approved the creation of the Juvenile Services Department by transferring the Division of Prevention Services (DPS) and the Juvenile Treatment for Safer Communities (TASC) Division from the Department of Human Services to the Juvenile Assessment Center (JAC). The creation of the Department does not alter the grant funding provided by the Florida Department of Juvenile Justice. However, the Department will have to submit the proper paperwork to reflect its creation.

RESOURCE ALLOCATION MEETING: FORM 1  
GENERAL DEPARTMENTAL SUMMARY

Department: Miami-Dade Juvenile Assessment Center (JAC)  
Fund: 010,720, SO

A) OPERATING BUDGET - REVENUES AND EXPENDITURES

(all dollars in thousands)					
FY 2002-03	FY 2003-04	FY 2004-05	FY 2004-05	FY 2004-05	FY 2005-06
Actual	Actual	Budget	Projection	Base Budget	Submission
REVENUE BY MAJOR CATEGORY					
94	0	0	0	0	0
2,927	4,454	5,381	6,101	6,364	6,364
97	88	900	180	180	180
729	729	729	729	729	729
692	692	669	669	500	500
250	298	0	0	0	0
1,300	1,201	0	0	0	0
6,089	7,462	7,679	7,679	7,773	7,773
Other Revenues (add more rows as necessary)					
TOTAL REVENUE					
EXPENDITURES BY MAJOR CATEGORY					
2,534	2,654	3,086	3,086	3,308	3,308
670	734	878	878	984	984
0	0	0	0	0	0
2,827	3,972	3,580	3,580	3,398	3,398
58	102	135	135	83	83
6,089	7,462	7,679	7,679	7,773	7,773
0					
0					
0					
6,089	7,462	7,679	7,679	7,773	7,773
TOTAL OPERATING EXPENDITURES					
Debt Service					
Reserves					
Transfers					
TOTAL EXPENDITURES					
Cash Position					
0	0	0	0	0	0
0	0	0	0	0	0
REVENUES LESS EXPENDITURES					
Revenue to the General Fund					

# GENERAL DEPARTMENTAL SUMMARY

Department: Miami-Dade Juvenile Assessment Center (JAC)

Fund: 010,720, SO

## B) POSITIONS

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2004-05	FY 2005-06
	Actual	Actual	Budget	Projection	Base Budget Submission
Full-time positions approved =	62	66	66	66	66
Net full-time positions funded =	62	62	66	66	66
Budgeted Attrition Percent =	0.00%	6.00%	2.00%	2.00%	2.00%
Part-time FTEs =	0	0	0	0	0
Temp Agency FTEs =	0	0	0	0	0

\* If department administers other reserve funds, please provide detailed documentation

## LEGISLATIVE ANALYSIS

### RESOLUTION RELATING TO EDUCATIONAL FACILITIES IMPACT FEES

Commissioner Bruno A. Barreiro

#### I. SUMMARY

This resolution directs the County Manager to take the steps necessary to implement Florida Statute section 1002.33(18)(f), which provides for designation of educational facilities impact fees generated by new development to be utilized for the creation of Public Charter Schools to serve the respective development.

- On April 12, 2005, this item was approved by the Infrastructure and Land Use Committee and sent to BCC without Recommendation.
- On May 5, 2005, this item failed due to a 5-5 vote by the Board of County Commissioners.
- This item has now been brought back to the BCC for reconsideration, at the request of Commissioner Barreiro.

#### II. PRESENT SITUATION

- Miami-Dade County has impact fees collected from real estate developers to alleviate and offset the monetary impact of new expenses that would be placed solely on the constituents of the County.
- School Impact fees are one-time payments from real estate developers to school districts used to build school improvements needed to accommodate new real estate development.  
*(Agenda Item 6(M)(1)(A)- Resolution Approving First Amended Interlocal Agreement with School Board Regarding Impact Fees—July 25, 2000)*
- In Miami-Dade County, an Impact Fee Rate Schedule (*Attachment I*) determines the fee developers must pay. Impact fees for schools have a flat rate developers must pay per unit based upon the type of residential community being developed.

#### III. POLICY CHANGE AND IMPLICATION

- The County Manager is directed to take the necessary steps in implementing Florida Statute section 1002.33(18)(f), which will allow the funding of charter schools for new developments through the assistance of impact fees. (In Florida, all charter schools are public schools.)

## **BCC ITEM 11(A)(13)**

**June 7, 2005**

- In theory, charter schools are created to expand the capacity of the public school system by providing innovative learning methods as well as opportunities to mitigate the educational impact of new developments.
- Allowing impact fees to go toward the creation of new charter schools will improve the timely construction of educational facilities needed to adjust to population expectations of new developments.

### Miami-Dade County School Board's Position:

- On April 12, 2005, representation from Miami-Dade County School's (MDCS) expressed they were against this proposed resolution.
- MDCS representatives believe:
  1. Any diversion of funding may burden the ability for new school growth as well as additional financial forecasting;
  2. This proposal may hinder MDCS Superintendent Dr. Rudolph F. Crew's 5 year plan;
  3. This proposal will have a direct conflict with Section 18 of the Impact Fee Interlocal Agreement with the Miami-Dade County Schools.
    - Pursuant to Section 18, if the County modifies impact fees subsequent to MDCS pledging funds to financial agreements the County may be responsible for any shortfall.

*(Attachment 2- July 25, 2000 Agenda Item 6(M)(1)(A)-  
Section 18 of the Resolution Approving First Amended  
Interlocal Agreement with School Board Regarding Impact  
Fees.)*

## **IV. ECONOMIC IMPACT**

- While this proposal addresses the positive possibility of supporting newly developed charter schools there may be a negative impact to funding schools that are already in existence.
- It is premature to approximate the fiscal impact this will pose for the County or the School system because the County Manager has not established the necessary steps to implement such legislation.

## **V. COMMENTS AND QUESTIONS**

# MIAMI-DADE COUNTY IMPACT FEE RATE SCHEDULE - Effective October 1, 1995

LAND USE	ROAD W 77 AVE	ROAD E 77 AVE	FIRE	POLICE	SCHOOL	PARKS DIST 1 N SW 8 ST	PARKS DIST 2 Middle	PARKS DIST 3 S SW 184 ST	UNITS
Port and Terminal									sq. ft.
Truck Terminals	\$1.55	\$1.477	\$0.1664	\$0.147					
<u>Industrial</u>									sq. ft.
Industrial Park	\$1.096	\$1.044	\$0.1664	\$0.147					sq. ft.
Manufacturing	\$0.605	\$0.577	\$0.1664	\$0.147					sq. ft.
Warehousing	\$0.767	\$0.731	\$0.1664	\$0.147					sq. ft.
Mini-Warehouse	\$0.41	\$0.391	\$0.1664	\$0.147					sq. ft.
<u>Residential</u>									
Single Family Detached	\$1,307	\$1,242	\$176.73	\$101.29	\$612.00	\$1,453.40	\$1,222.28	\$842.80	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,650.42	\$3,419.30	\$3,039.82	
plus (max. 3,800 sq. ft. per unit)						\$3,585.42	\$3,354.30	\$2,974.82	sq. ft.
Apartment (Rentals)	\$983	\$936	\$187.39	\$101.29	\$612.00	\$741.75	\$725.63	\$540.73	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$2,625.43	\$2,609.31	\$2,424.41	
plus (max. 3,800 sq. ft. per unit)						\$2,578.43	\$2,562.31	\$2,377.41	sq. ft.
Condominium	\$921	\$877	\$187.39	\$101.29	\$612.00	\$741.75	\$725.63	\$540.73	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$2,563.43	\$2,547.31	\$2,362.41	
plus (max. 3,800 sq. ft. per unit)						\$2,519.43	\$2,503.31	\$2,318.41	sq. ft.
Townhouse	\$921	\$877	\$187.39	\$101.29	\$612.00	\$1,247.01	\$998.68	\$785.83	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,068.69	\$2,820.36	\$2,607.51	
plus (max. 3,800 sq. ft. per unit)						\$3,024.69	\$2,776.36	\$2,563.51	sq. ft.
Mobile Home	\$756	\$720	\$176.73	\$101.29	\$612.00	\$1,453.40	\$1,222.28	\$842.80	unit
Total road, fire, police, park & school W. 77 Ave. E. 77 Ave.						\$3,099.42	\$2,868.30	\$2,488.82	
plus (max. 3,800 sq. ft. per unit)						\$3,063.42	\$2,832.30	\$2,452.82	sq. ft.
<u>Lodging</u>									room/sq. ft.
Hotel	\$1,094	\$1,042	\$0.3848	\$0.147					room/sq. ft.
Motel	\$1,281	\$1,220	\$0.3848	\$0.147					
<u>Recreational</u>									berth/sq. ft.
Marina	\$465	\$443	\$0.2912	\$0.147					hole/sq. ft.
Golf Course	\$5,910	\$5,631	\$0.2912	\$0.147					Court/sq. ft.
Racquet Club	\$6,745	\$6,427	\$0.2912	\$0.147					
<u>Institutional</u>									St. Sta./sq. ft.
Elementary School	\$31	\$30	\$0.2912	\$0.147					St. Sta./sq. ft.
High School	\$127	\$121	\$0.2912	\$0.147					St. Sta./sq. ft.
Jr./Community College	\$209	\$199	\$0.2912	\$0.147					St. Sta./sq. ft.
University	\$373	\$355	\$0.2912	\$0.147					sq. ft.
Church/Synagogue	\$0.857	\$0.817	\$0.2912	\$0.147					sq. ft.
Day Care Center	\$1.138	\$1.085	\$0.2912	\$0.147					
<u>Medical</u>									sq. ft.
Hospital	\$1.543	\$1.470	\$0.3848	\$0.147					bed/sq. ft.
Nursing Home	\$239	\$228	\$0.3848	\$0.147					
<u>Office</u>									
General Office Building									sq. ft.
1 - 50,000	\$2.607	\$2.484	\$0.2392	\$0.147					sq. ft.
50,001 - 100,000	\$2.206	\$2.102	\$0.2392	\$0.147					sq. ft.
100,001 - 200,000	\$1.863	\$1.775	\$0.2392	\$0.147					sq. ft.
200,001 - 300,000	\$1.693	\$1.614	\$0.2392	\$0.147					sq. ft.
300,001 - 400,000	\$1.566	\$1.492	\$0.2392	\$0.147					sq. ft.
400,001 - 500,000	\$1.486	\$1.416	\$0.2392	\$0.147					sq. ft.
500,001 - 600,000	\$1.423	\$1.356	\$0.2392	\$0.147					sq. ft.
600,001 - 700,000	\$1.376	\$1.311	\$0.2392	\$0.147					sq. ft.
700,001 - more	\$1.33	\$1.268	\$0.2392	\$0.147					sq. ft.
Medical Office Building	\$3.142	\$2.994	\$0.2392	\$0.147					sq. ft.
Research Center	\$1.211	\$1.154	\$0.2392	\$0.147					sq. ft.
Business Park	\$2.259	\$2.153	\$0.2392	\$0.147					sq. ft.
<u>Retail</u>									sq. ft.
1 - 10,000	\$2.408	\$2.294	\$0.2912	\$0.147					sq. ft.
10,001 - 50,000	\$1.317	\$1.255	\$0.2912	\$0.147					sq. ft.
50,001 - 100,000	\$1.015	\$0.967	\$0.2912	\$0.147					sq. ft.
100,001 - 200,000	\$2.606	\$2.483	\$0.2912	\$0.147					sq. ft.
200,001 - 300,000	\$2.367	\$2.256	\$0.2912	\$0.147					sq. ft.
300,001 - 400,000	\$3.766	\$3.589	\$0.2912	\$0.147					sq. ft.
400,001 - 500,000	\$3.585	\$3.417	\$0.2912	\$0.147					sq. ft.
500,001 - 600,000	\$3.486	\$3.322	\$0.2912	\$0.147					sq. ft.
600,001 - 800,000	\$3.409	\$3.249	\$0.2912	\$0.147					sq. ft.
800,001 - 1,000,000	\$3.431	\$3.269	\$0.2912	\$0.147					sq. ft.
1,000,001 - 1,200,000	\$3.474	\$3.311	\$0.2912	\$0.147					sq. ft.
1,200,001 - more	\$3.374	\$3.215	\$0.2912	\$0.147					sq. ft.
<u>Services</u>									sq. ft.
Nursery Garden	\$2.02	\$1.925	\$0.2912	\$0.147					sq. ft.
Quality Restaurant	\$11.38	\$10.845	\$0.2912	\$0.147					

@PJL SET USERNAME="TDW"

@PJL SET IPADDRESS="10.9.10.141:57863"

@PJL SET NOTIFYJOBEND=ON

Bank (Walk-in)	\$2.02	\$1.925	\$0.2392	\$0.147	sq. ft.
Bank (Drive-in)	\$3.81	\$3.631	\$0.2392	\$0.147	sq. ft.



13. RIGHT OF INSPECTION. The parties shall each have the right to request the review of the records of the other as to the receipt, allocation and expenditure of Impact Fees, including records as to the issuance of building permits. All requests for such inspections shall be made in writing and with reasonable notice.

14. MAINTENANCE OF EFFORT. It is understood that the School Board has a combination of both state and local revenue, other than impact fee revenue, available for the purchase and construction of new and expanded educational facilities and capital assets. The School Board agrees not to utilize Impact Fee Monies as a full or partial replacement of such funds for current or future capital projects. Impact Fee Monies will be used only to fund additional facilities and capital assets necessitated by the impacts of new development that could not otherwise been afforded, within the same benefit district in which the funds are collected.

15. SCHOOL BOARD APPROVAL. Contributions in-lieu-of impact fees, alternative methods of payment, or land dedications shall not be accepted except as approved in writing by the School Board or its authorized designee.

16. SEVERABILITY. If any item or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

17. EFFECTIVE DATE AND TERM. This Amendment shall become effective upon the signature of the last party, and shall remain in full force and effect for a period of thirty (30) years from the effective date. Any agreement, including but not limited to developer agreements, contribution in-lieu-of impact fee agreements and lease-purchase agreements (i.e. State School "EEE" and State School "X"), entered into pursuant to the original Interlocal Agreement, dated September 28, 1995, shall be governed by the terms and conditions of the original Interlocal Agreement. In the event that the School Board elects to buy out and refinance any lease-purchase agreement entered into pursuant to the original Interlocal Agreement, the refinanced project shall be governed by the terms and conditions of this First Amended Agreement.

18. COUNTY RESPONSIBILITIES. In the event impact fee revenues available for payments under a lease-purchase agreement or other multi-year financing method entered into by the School Board pursuant to this agreement are reduced to an amount which is less than the payment due, the County agrees to be responsible for the shortfall amount if such reduction is a direct result of repealing or modifying the Impact Fee Ordinance or Manual, or the imposition of a moratorium pursuant to Sections 33-319 and 33-320 of the Code of Miami-Dade County, and if such action is taken by the County after the date of the lease-purchase agreement or other multi-year financing method. In all other actions taken by Miami-Dade County, the County shall not be responsible for any shortfall of impact fees. It is understood that impact fee revenues available for payments shall mean all impact fees encumbered with respect to a particular lease-purchase agreement or other multi-year financing method, together with all other impact fee

revenue due under the Impact Fee Ordinance. In the event impact fee revenues available for payments under a lease-purchase agreement or other multi-year financing method entered into by the School Board pursuant to this agreement are reduced to an amount which is less than the payments due, and the School Board pays such shortfall in the payments from a non-impact fee revenue source, the School Board shall be entitled to be reimbursed for the shortfall payments from subsequent year impact fee revenues, to the extent available.

19. NOTICE OF VIOLATION. Unless otherwise provided for herein, in the event either party violates any provision of the Agreement, the violator shall be given written notice by the other party that a violation has occurred. The written notice shall state the nature of the purported violation and shall be transmitted by certified return receipt mail. The violator shall use diligent good faith efforts to cure the violation within thirty (30) days.

IN WITNESS WHEREOF, the parties have duly executed this Agreement by their duly authorized representatives this       day of       , 2000.

MIAMI-DADE COUNTY,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

ATTEST:

By: \_\_\_\_\_  
County Manager

By: \_\_\_\_\_  
Deputy Clerk

SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Superintendent

By: \_\_\_\_\_